Calendar No. 1207

98TH CONGRESS 2d Session | SENATE | REPORT 98-624

AUTHORIZING AMENDMENT OF A REPAYMENT AND WATER SERVICE CONTRACT FOR THE FRENCHMAN UNIT OF THE PICK-SLOAN MISSOURI RIVER BASIN PROGRAM, HITCHCOCK AND RED WILLOW IRRIGATION DISTRICT, NEBRASKA

SEPTEMBER 19 (legislative day, SEPTEMBER 17), 1984.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 3130]

The Committee on Energy and Natural Resources, to which was referred the act (H.R. 3130) to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program, having considered the same, reports favorably thereon without amendment and recommends that the act do pass.

PURPOSE

H.R. 3130 would authorize the Secretary of the Interior to execute an amendatory contract with the Hitchcock and Red Willow [H&RW] Irrigation District in Nebraska.

BACKGROUND AND NEED

The H&RW Irrigation District receives water from the Frenchman Unit of the Pick-Sloan Missouri Basin Program. In 1956, a contract was executed between the United States and the H&RW Irrigation District for annual water service charges for 17,500 acre-feet of water and for the construction, operation, and maintenance of distribution and drainage works. The contract established a ceiling of $1.5 million to be expended and repaid by the H&RW Irrigation District for the distribution and drainage works. An annual installment of $37,487 has

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been paid by the district and, as of September 30, 1982, a total of $299,909 has been paid under the existing contract.

Extensive ground water development and changes in land use upstream of Enders Reservoir, the major storage feature of the Frenchman Unit serving the H&RW Irrigation District, have depleted reservoir inflow by nearly 60 percent. Due to this depletion, the H&RW Irrigation District is unable to meet its repayment obligations and its contract with the United States. No feasible alternate water source to augment the district's water supply has been identified and the district is seeking a revision of the terms of the contract to provide for payment commensurate with the quantity of water delivered and the district's ability to pay.

Section 17(b) of the Reclamation Project Act of 1939 (act of August 4, 1939) as amended, requires congressional action to authorize the Secretary of the Interior to execute the amendatory contract because the contract would result in a reduction of the total amount payable to the Government by water users. H.R. 3130 provides such authority. It is noteworthy that any reduction in the water users' repayment would be offset by a corresponding increase in municipal industrial and/or power revenues to the Treasury from the Pick-Sloan Missouri Basin Program.

LEGISLATIVE HISTORY

H.R. 3130 was introduced by Congresswoman Smith of Nebraska on May 24, 1983. A hearing was held before the Subcommittee on Water and Power Resources of the House Committee on Interior and Insular Affairs on May 31, 1984, at which time the Department of the Interior supported passage. H.R 3130 was reported by the House committee on June 14, 1984 (H. Rept. 98–840) and passed the House on June 18, 1984.

A companion bill, S. 1428, was introduced on June 8, 1983, by Senators Exon and Zorinsky. Departmental comments on S. 1428 were received by the committee on March 27, 1984. The Department recommended enactment of S. 1428 with minor amendments. S. 1428 is presently pending before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources.

Similar legislation, H.R. 6327 and S. 2662, was introduced in the 97th Congress but was not considered prior to adjournment.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in an open business session on September 12, 1984, by a unanimous vote of a quorum present recommended that the Senate pass H.R. 3130 without amendment.

The rollcall vote on reporting the measure was 20 yeas and 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici [1]	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski [1]	
Mr. Nickles	
Mr. Hecht	
Mr. Chafee [1]	
Mr. Heinz [1]	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum [1]	
Mr. Matsunaga [1]	
Mr. Melcher	
Mr. Tsongas [1]	
Mr. Bradley	
Mr. Levin	

[1] Indicates voted by proxy.

EXPLANATION

H.R. 3130 authorizes the Secretary of the Interior to enter into an amended contract with the H&RW Irrigation District by rescinding the construction charge remaining unpaid as of September 30, 1980, as well as any interest penalty charges thereon. Approximately $1.2 million remain to be repaid. The amendatory contract would establish a water service charge for the water delivered commensurate with the district's ability to pay. Revenues from water service charges will be first credited to the payment of the annual operation, maintenance, and replacement costs of the project facilities and then toward repayment of the reimbursable irrigation cost obligation of the district.

Remaining unpaid construction costs and related charges, together with project charges which are beyond the district's ability to pay would be repaid from municipal and industrial and/or power revenues from the Pick-Sloan Missouri Basin Program.

COST AND BUDGETARY CONSIDERATIONS

The measure (H.R. 3130) authorizes amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program. Such amendment will not provide any new spending authority as that term is used under section 401 of the Congressional Budget and Impoundment Control Act of 1974.

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3130, an act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program, as ordered reported by the Senate Committee on Energy and Natural Resources, September 12, 1984. Enactment of this bill is estimated to have no net effect on federal outlays over the fiscal years 1985 through 1989, and will result in no costs to State and local governments.

The bill authorizes the Secretary of the Interior to revise the H&RW Irrigation District's contractual obligation to repay the department for certain water service and capital investment costs associated with the Frenchman Unit. Any reduction in the district's repayment obligations would be offset by a corresponding increase in the amounts to be paid from the power revenues of the Pick-Sloan Missouri Basin project.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committees makes the following evaluation of the regulatory impact which would be incurred in carying out H.R. 3130 as reported.

The act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals or businesses other than those normally resulting from the contracting process. H.R. 3130 authorizes the Secretary of the Interior to enter into an amended contract with the H&RW Irrigation District.

Other than normal paperwork associated with contractual agreements of the kind authorized by H.R. 3130, little additional paperwork would result from enactment of H.R. 3130.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the committee setting forth executive agency recommendations on S. 1428 is set forth below. It should be noted that an identical letter was sent to the House Committee on Interior and Insular Affairs on H.R. 3130.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC. May 23, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 1428, a bill to authorize amendments to certain repayment and water service contracts for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program.

We recommend enactment of S. 1428 with minor amendments.

S. 1428 would authorize the Secretary of the Interior to execute an amendatory contract with the H&RW Irrigation District. This contract would rescind the construction charge remaining unpaid as of September 30, 1980, as well as any interest or penalty charge thereon, and would establish a water service charge commensurate with the district's repayment ability for the water delivered.

The existing contract, No. 7-07-70-W0045, dated November 7, 1956, between the United States and H&RW provides for annual water service charges for 17,500 acre-feet of water pursuant to section 9(e) of the Reclamation Project of 1939 (53 Stat. 1187). Further, the contract provides for the construction, operation, and maintenance of the distribution and drainage works with full repayment of the costs pursuant to section 9(d) of the Reclamation Project Act of 1939. The contract established $1.5 million as the maximum to be expended and repaid by H&RW for the distribution works. An annual installment of $37,487 has been paid by H&RW toward the payment of the cost of the distribution and drainage works. As of September 30, 1982, a total of $299,909 has been repaid under the existing contract, leaving an unpaid obligation of $1.2 million.

Due to the irreversible depletion of the district's water supply, H&RW is no longer able to meet its repayment, water service, and operation, maintenance, and replacement obligations under its existing contract with the United States. Ground water pumping has depleted surface supplies previously available for storage and distribution to the district from Enders Reservoir on the Frenchman River in southwestern Nebraska. No viable plan has been indentified to augment the district's water supply. Therefore, the district is seeking a revision of the terms of repayment in the existing contract to be commensurate with the quantity of water received and the irrigators' ability to pay.

Congressional action is necessary to provide the Secretary with authority to execute an amendatory contract because such a contract would be less advantageous to the United States than the existing one. We believe that the amendatory contract contemplated by S. 1428 would provide an equitable solution to the H&RW Irrigation District's repayment problems caused by the ground water depletion.

The situation in which H&RW finds itself is unique. Although their water supply has been irreversibly depleted, they appear to have no remedy in existing State law. In order to avoid future problems at other existing facilities and with future Federal water resource investments, the Bureau of Reclamation is encouraging the States to under-

take actions where surface water supplies are expected to decline to identify complete, efficient and effective permanent solutions that protect the interests of the United States and the water users alike.

We recommend two technical amendments to S. 1428 to clarify that only one contract is involved, and to correctly identify the contract. The title of the bill should be revised as follows: "To authorize amendments to a certain repayment and water service contract for the Frenchman unit of the Pick-Sloan Missouri River Basin Program." The contract number on page 1, lines 8–9, should be changed to "7–07–70–W0045." Additionally, we note that the word "program" should be capitalized where it appears in lines 9 and 25 on page 2 of S. 1428.

A copy of the proposed amendatory contract is enclosed for the record.[1]

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's position.

Sincerely,

HAROLD W. FURMAN II,
Deputy Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the act H.R. 3130 as reported.

[1] Retained in committee files.

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